

REMARKS

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Reconsideration and allowance of the subject application are respectfully requested.

Claims 27-41 and 53-65 are pending in the application. Claims 42-52 have been cancelled without prejudice and applicant reserves the right to pursue the subject matter of withdrawn claims 42-52 in a Divisional Application. Basis for the amendment of claims 27-29 and 35 can be found in the originally filed application including at Figs. 1, 4, and 14, which clearly show hollow, circular-cylindrical elements standing on an open end. Basis for new claims 53, 55-57, 59, 60 and 65 can be found in the originally filed application including at pending claims 27-29 and page 9, line 29 to page 13, line 32. Basis for new claim 54 can be found in the originally filed application including at page 2, lines 26-35. Basis for new claims 58 and 61-64 can be found in the originally filed application including at page 8, lines 21-27. No new matter has been added.

The objection to claim 34 is obviated by the amendment set forth above as suggested by the examiner. No new matter has been added. Accordingly, withdrawal of the objection is respectfully requested.

The rejection of claims 27-29, 35 and 36 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,773,584 (Dietzsch) is respectfully traversed. The claimed invention is not anticipated by Dietzsch for the following reasons.

The claimed invention requires that the rows of hollow circular-cylindrical elements stand on an open end and are parallel to one another, i.e. aligned in the vertical plane. After forming the first row, subsequent rows are moved against the previous rows as a coherent unit so that the sides of the elements are bonded together and all of the elements are parallel.

Dietzsch teaches that the rows of load bearing structures are laid on their sides, i.e. aligned in the horizontal plane. Dietzsch teaches that the load bearing structures are formed from a thin material on mandrels (32) in a horizontal plane.

See Figs. 1-11 of Dietzsch. The formed load bearing structures are laid on top of previous structures so that the structures are parallel in the horizontal plane. See Figs. 5 and 6 of Dietzsch. In contrast, the claimed elements are not aligned in a horizontal plane, but rather stand on an open end, i.e. in the vertical plane. Thus, Dietzsch teaches in direction away from the claimed invention.

In view of the differences between the claimed invention and Dietzsch, withdrawal of the Section 102 rejection is respectfully requested.

The rejection of claims 31, 32 and 37 under 35 U.S.C. § 103(a) as being unpatentable over Dietzsch is respectfully traversed. The claimed invention is not taught or suggested by Dietzsch for the following reasons.

The claimed invention requires that the rows of hollow circular-cylindrical elements stand on an open end and are parallel to one another, i.e. aligned in the vertical plane. After forming the first row, subsequent rows are moved against the previous rows as a complete row so that the sides of the elements are bonded together and all of the elements are parallel.

Dietzsch teaches that the rows of load bearing structures are laid on their sides, i.e. aligned in the horizontal plane. Dietzsch teaches that the load bearing structures are formed from a thin material on mandrels (32) in a horizontal plane. See Figs. 1-11 of Dietzsch. The formed load bearing structures are laid on top of previous structures so that the structures are parallel in the horizontal plane. See Figs. 5 and 6 of Dietzsch. In contrast, the claimed elements are not aligned in a horizontal plane, but rather stand on an open end, i.e. in the vertical plane. Thus, Dietzsch teaches in direction away from the claimed invention.

The Examiner cites column 5, lines 37-42 of Dietzsch, which teaches that:

The tube sections forming a transverse band are fed in the direction of the arrow 12 and then moved downwardly in the direction of arrow 13 so as to form, together with already produced tube sections, the block 5. The block shown consists of five layers of tube sections. Obviously the tubes and **tube sections can also be moved in directions other than shown in FIG. 1, e.g., the tubes can be moved in the vertical direction, and the tube sections moved in the horizontal direction for forming a block.** Deposited layers can be so arranged that the individual windings of superimposed tube lengths are disposed in the same planes or are alternately offset with respect to each other.

While Dietzsch teaches that the tubes formed in the horizontal plane can be moved vertically or horizontally, (i.e. moved in any direction while the tubes are laying on their sides) Dietzsch **does not teach rotating** the tubes so that they are standing on their open ends, i.e. aligned in the vertical plane. Dietzsch also does not teach or suggest any tubes having sufficient integrity to be able to be fed standing up on their open ends and also does not teach moving a row of tubes standing on their open ends as a coherent unit to another row of tubes standing on their open ends. In contrast, in the claimed invention the tubes are aligned so that they are standing on an open end and they are moved as a coherent unit while they are standing on an open end, i.e. aligned in the vertical plane.

In view of the differences between the claimed invention and Dietzsch, withdrawal of the Section 103 rejection is respectfully requested.

The rejection of claims 30, 33, 34, 38 and 39 under 35 U.S.C. § 103(a) as being unpatentable over Dietzsch as applied to claims 27-29, 31, 32 and 35-37 above in view of U.S. Patent No. 6,199,342 (Court) is respectfully traversed. The claimed invention is not taught or suggested by the theoretical combination of Dietzsch and Court for the following reasons.

Dietzsch does not teach or suggest the claimed invention for the reasons provided above, and Court does not supply the deficiencies of Dietzsch. Indeed, like Dietzsch, Court teaches forming rows of tubes in the horizontal plane, and then stacking the rows of tubes on top of one another. See column 2, lines 14-37 of Court. See also Fig. 7 and column 7, lines 23-47 of Court, which teaches that the tubes are aligned in the horizontal plane and "then assembled one on top of another, to form stack 42 of rows 40." Court uses gravity feed to help align the tubes. The structure taught by the combination of Dietzsch and Court can only be used to align the tubes in the horizontal plane. The structure taught by Dietzsch and Court cannot be used to align tubes that are standing upright so that they are aligned in the vertical plane, as in the claimed invention.

In view of the differences between the claimed invention and the theoretical combination of Dietzsch and Court, withdrawal of the Section 103 rejection is respectfully requested.

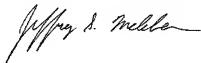
The rejection of claims 40 and 41 under 35 U.S.C. § 103(a) as being unpatentable over Dietzsch in view of Court as applied to claims 27-39 above in view of U.S. Patent No. 4,555,299 (Voltmer) is respectfully traversed. The claimed invention is not taught or suggested by the theoretical combination of Dietzsch, Court and Voltmer for the following reasons.

The combination of Dietzsch and Court does not teach or suggest the claimed invention for the reasons provided above, and Voltmer does not supply the deficiencies of Dietzsch and Court. The combination of Dietzsch and Court teaches to align tubes in the horizontal plane, which is in a direction away from the claimed invention. Voltmer does not teach to align tubes in the vertical plane. Thus, the combination of Dietzsch, Court and Voltmer does not teach aligning the tubes that are standing on open ends according to the claimed invention.

In view of the differences between the claimed invention and the theoretical combination of Dietzsch, Court and Voltmer, withdrawal of the Section 103 rejection is respectfully requested.

In view of all of the objections and rejections of record having been addressed, it is believed that the present application is in condition for allowance and Notice to that effect is respectfully requested.

Respectfully submitted,
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